

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cv-00362-RJC
(3:04-cr-00250-RJC-13)

JOHN MICHAEL McDOWELL,)
Petitioner,)
v.) **ORDER**
UNITED STATES OF AMERICA,)
Respondent.)

THIS MATTER is before the Court on consideration of the Respondent's motion to stay disposition of this collateral proceeding. (Doc. No. 4).

Respondent moves for a 60-day extension from the date the Supreme Court decides Beckles v. United States, No. 15-8455 (June 27, 2016), in order to file a response to Petitioner's § 2255 Motion to Vacate. Respondent contends the following issues may have a bearing on Petitioner's case: (1) "Whether [Johnson v. United States, 135 S. Ct. 2551 (2015)] applies retroactively to collateral cases challenging federal sentences enhanced under the residual clause in U.S.S.G. § 4B1.2(a)(2)"; (2) Whether *Johnson*'s constitutional holding applies to the residual clause in U.S.S.G. § 4B1.2(a)(2), thereby rendering challenges to sentences enhanced under it cognizable on collateral review?"; and (3) "Whether mere possession of a sawed-off shotgun, an offense listed as a 'crime of violence' only in the commentary to U.S.S.G. § 4B1.2, remains a 'crime of violence' after *Johnson*."

Because issues involved in the Beckles case are likely relevant to resolution of Petitioner's case, and noting no objection from Petitioner, the Court will grant Respondent's

motion.

IT IS, THEREFORE, ORDERED that Respondent's motion to stay is **GRANTED**, (Doc. No. 4), and Respondent shall have 60-days from the date the Supreme Court renders its decision in Beckles v. Unites States to file a response to Petitioner's § 2255 Motion to Vacate. Petitioner may file a reply consistent with the Local Rules for this District.

Signed: August 16, 2016



Robert J. Conrad, Jr.
United States District Judge